



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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**SENSITIVE**

January 21, 1999

**MEMORANDUM**

TO: The Commission

FROM: Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner *LL*  
Associate General Counsel

SUBJECT: Pre-MUR 374  
Beaulieu of America, Inc.

**I. BACKGROUND**

On December 10, 1998, the Commission received a referral from the Department of Justice involving Beaulieu of America, Inc. ("Beaulieu"), a corporation located in Georgia. The Department of Justice has conducted a criminal investigation and has entered into a plea agreement with Beaulieu. Pursuant to the Guilty Plea and Plea Agreement, Beaulieu has now paid a one million dollar (\$1,000,000) criminal fine, been placed on probation for a period of two years during which it will implement a corporate compliance program to prevent future FECA violations, and its principal officers will serve a total of 500 hours of community service as part of the corporation's probation. The Court accepted the plea agreement and sentenced Beaulieu on December 1, 1998. All criminal fines and assessments were paid immediately after sentence was imposed.

The Guilty Plea and Plea Agreement states that Beaulieu acknowledges that the Commission has exclusive authority to seek civil remedies against it for the violations at issue. Beaulieu also agrees to submit to the Commission's jurisdiction, to cooperate with the Commission in its compliance proceedings against it, including waiving notification procedures to which it may be entitled and any statute of limitations which may be applicable to Commission compliance proceedings, and to enter into a conciliation agreement and to pay

whatever civil penalty the Commission deems appropriate pursuant to the provisions of 2 U.S.C. § 437g(a)(5). The plea agreement continues on to state that the Department of Justice and Beaulieu have agreed that a civil penalty of \$200,000 would be an appropriate civil disposition of this matter before the Commission. Enclosed with the referral was a check, payable to the Federal Election Commission, in the amount of \$200,000.<sup>1</sup>

## II. FACTUAL AND LEGAL ANALYSIS

The Criminal Information and Plea Agreement state that in 1995 Carl M. Bouckaert, the Chief Executive Officer of Beaulieu, was a National Finance Co-Chair of Alexander for President Inc., the principal campaign committee of Lamar Alexander in the 1996 presidential election. On March 8, 1995, the Alexander for President committee held a \$1,000 per person fundraising dinner in Dalton, Georgia. Carl M. Bouckaert was one of the co-chairs of the dinner. At the direction of corporate officers, at least 36 persons, comprised of employees and their spouses, made contributions, using personal checks, of \$1,000 each to Alexander for President committee to purchase tickets to the dinner.<sup>2</sup> After the contributions were made, Beaulieu reimbursed the employees using corporate funds, disguising the reimbursements as "bonuses" or "expense reimbursements." Information provided to this Office by the Audit Division indicates that contributions from almost all of the conduits identified by the Department of Justice were matched. (Attachment 1.)

The Plea Agreement states that as a result of this conduct, "the Alexander for President Committee unwittingly and incorrectly reported as individual contributions what were in fact at least \$36,000 in corporate contributions funneled through conduits." The Plea Agreement also states that beginning in or

<sup>1</sup> The Plea Agreement states that in the event the Commission accepts the tendered civil penalty amount, and after a conciliation agreement has been entered into by Beaulieu and accepted by the Commission, "no further criminal or administrative proceedings (other than those associated with the implementation of this plea agreement) will be undertaken against the defendant by the Department of Justice or the FEC for the FECA violations admitted in this plea agreement."

<sup>2</sup> The copy of the Plea Agreement included with the referral identified the contributions at issue by date and amount only. Subsequent information provided to this Office by the Department of Justice included the names of the conduits, as follows: Truman Darrell Albright 3/9/95 (\$1,000); David Caples, Jr. 3/9/95 (\$1,000); Lawrence Cole 3/9/95 (\$1,000 or \$998); Andrea Hawkins 3/9/95 (\$2,000); Howard Lewis 3/9/95 (\$1,000); Sage Ralston 3/9/95 (\$1,000); Donald Howard 3/17/95 (\$2,000); Phillip Bates 3/14/95 (\$2,000); Gary Casper 3/14/95 (\$2,000); Mitch and Linda Smith 3/14/95 (\$2,000); Ken Stewart 3/1/95 (\$2,000); Larry Swanson 3/14/95 (\$2,000); Skip Johnson 3/14/95 (\$2,000); Frank McDonald 3/14/95 (\$2,000); George Hearn 3/14/95 (\$2,000); Rick Chambers 3/21/95 (\$1,000); Ken Norris 3/9/95 (\$2,000); Joel Deason 3/9/95 (\$2,000); Russell Guinn 3/9/95 (\$2,000); Robert Ingram 3/9/95 (\$2,000); and Michael McTaggart 3/9/95 (\$2,000). The Audit Division has informed this Office that in most cases the check was equally split between the contributor and another person, an apparent spouse.

about March 1995 and continuing until in or about January 1996, Beaulieu "knowingly and willfully violated laws of the United States related to campaign financing as set forth in the Federal Election Campaign Act ("FECA")." The Criminal Information states that Beaulieu "did knowingly and willfully make and consent to contributions in violation of the prohibition against corporate contributions," in violation of 2 U.S.C. § 441b(a), and that Beaulieu "did knowingly and willfully make and cause to be made contributions in violation of the prohibition against disguised contributions made through conduits," in violation of 2 U.S.C. § 441f. In the Guilty Plea and Plea Agreement, Beaulieu "admits that it committed the specific violations of the FECA set forth in Counts One through Five of the Information."

Pursuant to 2 U.S.C. § 441b(a) it is unlawful for any corporation to make a contribution or an expenditure in connection with a federal election, and it is unlawful for any officer or director of any corporation to make a contribution or expenditure in connection with a federal election. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person.

In this matter, Beaulieu has admitted in the Guilty Plea and Plea Agreement that it knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f in that it knowingly and willfully made and consented to conduit contributions of at least \$36,000 to Alexander for President, Inc. by causing various employees and their spouses to make contributions using personal funds and then reimbursing those employees with corporate funds disguised as "bonuses" or "expense reimbursements." It is, therefore, the recommendation of this Office that the Commission open a Matter Under Review and find reason to believe that Beaulieu knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. In addition to the reason to believe findings, this Office recommends that the Commission approve the attached conciliation agreement with Beaulieu which provides for admissions of the violations and a \$200,000 civil penalty. This Office believes that the amount of the civil penalty is acceptable in light of the amount of the conduit contributions at issue and the fact that Beaulieu has paid a \$1,000,000 criminal fine.

Although ordinarily we would not proceed immediately with this matter under the Enforcement Priority System, this Office believes that the unusual circumstances of the matter warrant special handling. In this instance, an investigation already has been conducted by the Department of Justice, a plea agreement has been entered into by Beaulieu, and it stands ready to enter into a conciliation agreement with the Commission and is offering to pay a \$200,000 civil penalty. This matter is similar to MUR 4704 (American Family Life Assurance Company ), MUR 4772 (Sun-Land Products of California), MUR 4796

(DeLuca Liquor and Wine, Ltd.), and MUR 4834 (Howard Glicker) which were referred to the Commission after agreements were reached with the respondents that they submit to the Commission's jurisdiction and pay a civil penalty.

### III. RECOMMENDATIONS

1. Open a Matter Under Review.
2. Find reason to believe that Beaulieu of America, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.
3. Enter into conciliation with Beaulieu of America, Inc. prior to findings of probable cause to believe.
4. Approve the attached Conciliation Agreement.
5. Approve the appropriate letter.

#### Attachments:

1. Information from Audit
2. Conciliation Agreement

# Alexander for President

Contributors related to Premur 374 - Beaulieu of America

Contributor Name	Date	Matched Amount
Mr. Darrell T. Albright	03/09/1995	\$250.00
Mrs. Robin K. Albright	03/09/1995	\$250.00
Mr. David L. Caples	03/09/1995	\$250.00
Mrs. Donna C. Caples	03/09/1995	\$250.00
Mr. Lawrence Cole	03/09/1995	\$250.00
Mrs. Chris V. Cole	03/09/1995	\$250.00
Mr. David Hawkins	03/09/1995	\$250.00
Mrs. Andrea Hawkins	03/09/1995	\$250.00
Mr. H.B. Lewis, Jr.	03/09/1995	\$250.00
Mr. Roger S. Ralston	03/09/1995	\$250.00
Mr. Donald W. Howard	03/17/1995	\$250.00
Mrs. Trecia A. Howard	03/17/1995	\$250.00
Mr. Phil Bates	03/14/1995	\$250.00
Mrs. Deborah R. Bates	03/14/1995	\$250.00
Mr. Gary R. Casper	03/14/1995	\$250.00
Mrs. Essie E. Casper	03/14/1995	\$250.00
Mr. Mitchell Smith	03/14/1995	\$250.00
Mrs. Linda Smith	03/14/1995	\$250.00
Mr. Ken W. Stewart	03/14/1995	\$250.00
Mrs. Diane Stewart	03/14/1995	\$250.00
Mr. Frank McDonald	03/14/1995	\$250.00
Mrs. Elaine McDonald	03/14/1995	\$250.00
Mr. George Hearne	03/14/1995	\$250.00
Mrs. Linda M. Hearne	03/14/1995	\$250.00
Mr. Rick Chambers	03/21/1995	\$250.00
Mr. Kenneth L. Norris	03/09/1995	\$250.00
Mr. Joel F. Deason	03/09/1995	\$250.00
Mrs. Helen S. Deason	03/09/1995	\$250.00
Mr. Russell Guinn	03/09/1995	\$250.00
Mrs. Paula Guinn	03/09/1995	\$250.00
Mr. Bob Ingram	03/09/1995	\$250.00
Mr. Monty Ingram	03/09/1995	\$250.00
Mr. Michael K. McTaggart	03/09/1995	\$250.00
Mrs. Martha J. McTaggart	03/09/1995	\$250.00

Contributors not found on the Matching Fund Data Base:

- Larry Swanson
- Skip Johnson

Attachment 1



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA R. DAVIS  
COMMISSION SECRETARY

DATE: JANUARY 27, 1999

SUBJECT: Pre-MUR 374 - Memorandum to the Commission  
dated January 21, 1999.

A handwritten signature, likely of Lisa R. Davis, is written inside a circle next to the "FROM" line.

The above-captioned document was circulated to the Commission  
on Friday, January 22, 1999.

Objection(s) have been received from the Commissioner(s) as  
indicated by the name(s) checked below:

Commissioner Elliott	—
Commissioner Mason	—
Commissioner McDonald	—
Commissioner Sandstrom	<b>XXX</b>
Commissioner Thomas	<b>XXX</b>
Commissioner Wold	—

This matter will be placed on the meeting agenda for  
Tuesday, February 2, 1999.

Please notify us who will represent your Division before the Commission on this  
matter.